

TAFT, STETTINIUS & HOLLISTER

1800 STAR BANK CENTER

425 WALNUT STREET

CINCINNATI, OHIO 45202-3957

513-381-2838

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FAX: 513-381-0205

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RECORDATION NO. 18173

March 10, 1993 11:40 AM

FILED IN SOUTHERN KENTUCKY OFFICE
THOMAS MORE CENTRE
2870 CHANCELLOR DRIVE
CRESTVIEW HILLS, KENTUCKY 41017-3491
606-331-2838
513-381-2838
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CERTIFIED MAIL/RETURN RECEIPT REQUESTED
Interstate Commerce Commission
12th Street & Constitution Ave., N.W.
Washington, D.C. 20423
Attn: Mildred Lee
Room 2303

3-082A039

Dear Ms. Lee:

I have enclosed herewith an original and one copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Railroad Equipment Lease, a primary document, dated December 1, 1992.

The names and addresses of the parties to the document are as follows:

LESSOR: The David J. Joseph Company
300 Pike Street
Cincinnati, Ohio 45202

LESSEE: Hobet Mining, Inc.
P.O. Box 6100
Huntington, W. Virginia 25701

The equipment covered by the enclosed document are eighty-two (82) 100 ton, 4,000 cubic foot capacity rotary dump steel gondola railcars, built by Thrall in 1978 and 1985 and twenty-eight (28) 100 ton, 4,000 cubic foot capacity rotary dump steel gondola railcars built by Thrall in 1970 currently bearing the reporting marks set forth in Exhibit A attached hereto.

A fee of \$16.00 is enclosed. Please return the original executed copy of the enclosed document to:

Philip F. Schultz, Esq.
Taft, Stettinius & Hollister
1800 Star Bank Center
425 Walnut Street
Cincinnati, OH 45202-3957

NOV 10 1993

Ms. Mildred Lee
March 10, 1993
Page 2

A short summary of the document to appear in the index follows:

Railroad Equipment Lease between Hobet Mining, Inc., P.O. Box 6100, Huntington, W. Virginia 25701, as Lessee, and The David J. Joseph Company, 300 Pike Street, Cincinnati, Ohio 45202, as Lessor dated December 1, 1992 and covering eighty-two (82) 100 ton, 4,000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1978 and 1985 and twenty-eight (28) 100 ton, 4,000 cubic capacity rotary dump steel gondola railcars built by Thrall in 1970.

Please call me if you should have any questions.

Yours truly,



Philip F. Schultz
Attorney for
The David J. Joseph Company

PFS/taj
Enclosure

iccfla8.djj

EXHIBIT A

DESCRIPTION OF UNITS

Eighty-two (82) 100 ton, 4000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1978 (OGEX 1371 and OGEX 1372) and the balance in 1985, as described in the line drawing sheet attached hereto as part of Exhibit A, and with the following markings or designations:

<u>OLD NUMBER</u>	<u>NEW NUMBER</u>
OGEX 1183	DJJX 2100
OGEX 1186	DJJX 2101
OGEX 1188	DJJX 2102
OGEX 1192	DJJX 2103
OGEX 1194	DJJX 2104
OGEX 1195	DJJX 2105
OGEX 1197	DJJX 2106
OGEX 1200	DJJX 2107
OGEX 1201	DJJX 2108
OGEX 1207	DJJX 2109
OGEX 1208	DJJX 2110
OGEX 1211	DJJX 2111
OGEX 1213	DJJX 2112
OGEX 1214	DJJX 2113
OGEX 1216	DJJX 2114
OGEX 1217	DJJX 2115
OGEX 1218	DJJX 2116
OGEX 1221	DJJX 2117
OGEX 1223	DJJX 2118
OGEX 1224	DJJX 2119
OGEX 1227	DJJX 2120
OGEX 1229	DJJX 2121
OGEX 1231	DJJX 2122
OGEX 1233	DJJX 2123
OGEX 1234	DJJX 2124
OGEX 1235	DJJX 2125
OGEX 1237	DJJX 2126
OGEX 1240	DJJX 2127
OGEX 1242	DJJX 2128
OGEX 1243	DJJX 2129
OGEX 1245	DJJX 2130
OGEX 1251	DJJX 2131
OGEX 1252	DJJX 2132
OGEX 1255	DJJX 2133
OGEX 1257	DJJX 2134
OGEX 1262	DJJX 2135
OGEX 1265	DJJX 2136
OGEX 1267	DJJX 2137
OGEX 1269	DJJX 2138
OGEX 1270	DJJX 2139
OGEX 1272	DJJX 2140

EXHIBIT A

<u>OLD NUMBER</u>	<u>NEW NUMBER</u>
OGEX 1276	DJJX 2141
OGEX 1277	DJJX 2142
OGEX 1278	DJJX 2143
OGEX 1285	DJJX 2144
OGEX 1287	DJJX 2145
OGEX 1289	DJJX 2146
OGEX 1291	DJJX 2147
OGEX 1293	DJJX 2148
OGEX 1294	DJJX 2149
OGEX 1295	DJJX 2150
OGEX 1298	DJJX 2151
OGEX 1301	DJJX 2152
OGEX 1306	DJJX 2153
OGEX 1307	DJJX 2154
OGEX 1312	DJJX 2155
OGEX 1314	DJJX 2156
OGEX 1315	DJJX 2157
OGEX 1316	DJJX 2158
OGEX 1317	DJJX 2159
OGEX 1319	DJJX 2160
OGEX 1320	DJJX 2161
OGEX 1322	DJJX 2162
OGEX 1324	DJJX 2163
OGEX 1325	DJJX 2164
OGEX 1326	DJJX 2165
OGEX 1332	DJJX 2166
OGEX 1337	DJJX 2167
OGEX 1341	DJJX 2168
OGEX 1342	DJJX 2169
OGEX 1343	DJJX 2170
OGEX 1344	DJJX 2171
OGEX 1352	DJJX 2172
OGEX 1354	DJJX 2173
OGEX 1358	DJJX 2174
OGEX 1359	DJJX 2175
OGEX 1361	DJJX 2176
OGEX 1362	DJJX 2177
OGEX 1364	DJJX 2178
OGEX 1370	DJJX 2179
OGEX 1371	DJJX 2180
OGEX 1372	DJJX 2181

EXHIBIT A

Twenty-eight (28) 100 ton, 4000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1970, as described in the line drawing sheet attached hereto as part of Exhibit A, and with the following markings or designations:

<u>OLD NUMBER</u>	<u>NEW NUMBER</u>
BN 575029	DJJX 1837
BN 575059	DJJX 1838
BN 575062	DJJX 1839
BN 575071	DJJX 1840
BN 575072	DJJX 1841
BN 575101	DJJX 1842
BN 575103	DJJX 1843
BN 575107	DJJX 1844
BN 575110	DJJX 1845
BN 575124	DJJX 1846
BN 575143	DJJX 1847
BN 575135	DJJX 1848
BN 575145	DJJX 1849
BN 575150	DJJX 1850
BN 575168	DJJX 1851
BN 575175	DJJX 1852
BN 575183	DJJX 1853
BN 575199	DJJX 1854
BN 575202	DJJX 1855
BN 575233	DJJX 1856
BN 575241	DJJX 1857
BN 575242	DJJX 1858
BN 575243	DJJX 1859
BN 575244	DJJX 1860
BN 575245	DJJX 1861
BN 575246	DJJX 1862
BN 575247	DJJX 1863
BN 575249	DJJX 1864

18173
RECORDATION NO. FILED 1425

MAR 23 1993 11:40 AM

INTERSTATE COMMERCE COMMISSION

RAILROAD EQUIPMENT LEASE
BY AND BETWEEN
THE DAVID J. JOSEPH COMPANY
AND
HOBET MINING, INC.
DATED AS OF:
DECEMBER 1, 1992

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RAILROAD EQUIPMENT LEASE

THIS RAILROAD EQUIPMENT LEASE (the "Lease"), dated as of the 1st day of December, 1992 is made and entered into by and between The David J. Joseph Company, a Delaware corporation (hereinafter referred to as "Lessor") and Hobet Mining, Inc., a West Virginia corporation (hereinafter referred to as "Lessee").

WHEREAS, Lessee desires to lease from Lessor and Lessor desires to lease to Lessee all of the items of equipment specified in Exhibit A attached hereto (hereinafter collectively referred to as the "Units" and singularly referred to as "Unit") on the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements set forth herein, the parties hereby agree as follows:

1. **Lease of Units.** Lessor hereby leases to Lessee and Lessee hereby rents from Lessor the Units for the period (the "Base Term") commencing on the date upon which the Units are tendered to Lessee at such point or points as are set forth on Exhibit C attached hereto, and are accepted by Lessee as provided in Section 3 below (the "Commencement Date"); and ending on the latter of the last day of the thirty-sixth (36th) full calendar month following the acceptance of the Units under this Lease (the "Expiration Date") or the date upon which all of Lessee's obligations hereunder have been met (the "Termination Date"). Lessee, upon at least ninety (90) calendar days written notice prior to Expiration Date, shall have the right to extend the Lease for the period from the Expiration Date to December 31, 1998 (the "Option Term") for all but not less than all Units subject to this Lease. The Base Term and Option Term are collectively referred to hereinafter as the "Terms."

2. **Rentals.** Lessee agrees to pay to Lessor the amount of rent specified in Exhibit B attached hereto (the "Base Rental" and the "Option Term Rental" collectively, the "Rentals") in advance on the first day of each calendar month during the Terms. The Lessee shall also pay, as additional rent, all such other sums of money as shall become due and payable by Lessee to Lessor under this Lease (the Base Rental and Option Term Rental any additional rent due hereunder are sometimes hereinafter referred to as "Gross Rental"). If the Commencement Date is not the first day of the month, a pro-rated monthly installment shall be paid at the then current rate for the fractional month during which the Commencement Date occurs, such installment or installments so pro-rated shall be paid in advance on or before the Commencement Date. Except as otherwise expressly provided for in Section 4(e), Lessee shall not

be entitled to any abatement of Gross Rental, reduction thereof or setoff against Gross Rental, it being the intention of the parties hereto that Gross Rental shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated or abated pursuant to the express provisions of this Lease. All past due installments of Gross Rental shall bear interest from date due until paid at the rate of the prime rate for domestic commercial loans as published from time to time in the Wall Street Journal plus two percent (2%) per annum.

3. Delivery and Acceptance of Units. Lessor will cause each Unit to be tendered to the Lessee at such point or points as are set forth on Exhibit C attached hereto. Within ten (10) calendar days of such tender of all the Units, Lessee will cause its authorized inspectors or representatives to inspect the Units, and if such Units are found to be in good operating order, repair and condition, other than having certain pre-existing damages or other specified defects as acknowledged on Exhibit D hereto, to accept delivery of such Units (or so many of such Units as are acceptable to Lessee) and to execute and deliver to the Lessor a certificate in the form of Exhibit D hereto, and such Lessee's certificate shall be absolutely binding upon Lessee. If any Unit is not deemed by Lessee to be in good operating order and repair, Lessee shall so notify Lessor in a writing that specifies the nature of the damage or defect in the Unit, and Lessor, at its option, may either (i) repair such Unit; (ii) substitute a piece of equipment that is substantially similar to the defective Unit and acceptable to Lessee; or (iii) delete the defective Unit. If Lessee has not notified Lessor of any defect in any Unit within ten (10) calendar days of the date such Unit was tendered by Lessor, or if Lessee uses any Unit prior to delivering a Lessee's certificate of acceptance with respect thereto, ten (10) calendar days after such tender or on the date such Unit is used by Lessee, as the case may be, such Unit or Units shall be deemed to be accepted by Lessee and to conform in all respects with the standards of condition and repair set forth in this Lease.

4. Maintenance and Repairs. (a) Lessor shall, at its expense, perform, arrange, and pay for all maintenance and repairs made necessary on the Units by ordinary wear and tear during the Terms of the Lease, as well as any additions, modifications or adjustments required by the U.S. Department of Transportation, or any other governmental agency or non-government organization having jurisdiction over the operation, safety or use of railroad equipment, in order to qualify the Units for operation in railroad interchange. Lessee shall not repair, or authorize the repair of, any of the Units without Lessor's prior written consent, except that running repairs (as specified in the Association of American Railroads rules for interchange ("Interchange Rules")) may be performed by railroads or hauling carriers without prior written

consent. The amount Lessor will pay for such running repairs shall not be in excess of the schedule of standard costs, in effect at the time the repair is made, provided by the Association of American Railroads.

(b) It is the intent of this Lease Agreement that Lessor shall have all the rights and obligations of an owner of the Units except for any rights or obligations given or assigned to Lessee herein. Lessor shall have the right, but not the obligation, to conduct such inspections and preventative maintenance programs as Lessor deems necessary. Lessee will provide freight and switching services to and from any shop of Lessor's choosing located on-line of the railroad on which Lessee is utilizing the Units, or to and from the interchange point (of such on-line railroad) closest to any shop of Lessor's choosing should such shop be off-line from the railroad on which Lessee is utilizing the Units, at no cost to Lessor. Lessor will undertake such programs on a rotation basis and in a manner which minimizes the interruptions of service to Lessee.

(c) Lessee shall not make any alteration, improvement or addition to any Unit without the prior written consent of Lessor thereto.

(d) Lessee shall be responsible for the cost of and pay for all damage to a Unit, including but not limited to, any damage caused by cornering, sideswiping, derailment, improper or abusive loading or unloading methods, unfair usage or similar occurrences while under this Lease, whether such damage to a Unit is direct, indirect, incidental or consequential, but excluding the maintenance and repairs made necessary by ordinary wear and tear which is the Lessor's responsibility as provided in Section 4 (a) herein. Lessee shall promptly notify Lessor of the location and condition of any Unit which is in need of repair due to normal wear and tear, damage or destruction and shall thereafter continue to give Lessor any additional information which the Lessor has a need to obtain about such Unit. Lessee shall pass through to Lessor any payment received by Lessee from any third parties as reimbursement for costs or expenses which are the responsibility of Lessor pursuant to this Lease. Lessor shall pass through to Lessee any payment received by Lessor from any third parties as reimbursement for cost or expenses which are the responsibility of Lessee pursuant to this Lease.

(e) If any Unit shall be ordered to a car repair shop by Lessor in order to perform maintenance, modifications and repairs which are the responsibility of Lessor under this Section 4 and such Unit shall not be returned to Lessee's service within ten (10) calendar days, Lessee's obligation to pay Rentals shall be abated from the eleventh (11th) day after the Unit is delivered to the car repair shop until the day upon which Lessor notifies Lessee that

such Unit is repaired and ready for Lessee's use, or the day upon which Lessor has placed in Lessee's service a substitute Unit satisfactory to Lessee. It is understood that no abatement of Rentals will be made on Units in a car repair shop for repair or damage which are Lessee's responsibilities.

(f) In the event a Unit has been unavailable for use due to excessive outages ("excessive outages" for a Unit for the purpose of this Lease shall be defined as a Unit subject to this Lease which has been directed to a car repair shop by Lessor for correction of pre-existing conditions specified on Lessee's Certificate of Acceptance shown as Exhibit D hereto for such Unit and is out of service for more than forty-five (45) days within a consecutive six (6) month period), Lessee may elect to have such Unit removed from this Lease. Rentals for such removed Unit shall cease upon receipt of notification thereof by Lessor. For any such removed Unit, Lessor shall provide to Lessee a "substitute railcar" of like specifications (a "substitute railcar" for the purpose of this Lease shall be defined as a railcar; acceptable to the Lessee, and which is in Lessor's fleet, not currently in other service, or a railcar obtainable within a reasonable time by Lessor).

During the Term of this Lease, Lessor shall be entitled to substitute any or all Units subject to this Lease at any time with substitute railcars of like specifications, which are in all respects acceptable to Lessee.

Any such substitute railcar pursuant to this Section of the Lease accepted by Lessee shall be considered a "Unit" under this Lease and shall be subject to all of the terms and conditions herein.

(g) Notwithstanding anything herein contained, Lessor may notify Lessee that it is withdrawing from this Agreement any Unit which in the opinion of Lessor has been destroyed, damaged or needs repairs in excess of its economic value, whereupon this Agreement will terminate as to such withdrawn Unit; provided, however, Lessor may, with Lessee's consent, substitute a Unit of like specifications, acceptable to Lessee, in which case all of the terms and conditions of this Agreement shall apply to the substituted Unit.

5. Warranties. (A) Lessor represents and warrants that at the time of delivery and acceptance of such Units, the Units will be in good operating order, repair and condition except for such pre-existing damages or defects as specified on Lessee's Certificate of Acceptance shown as Exhibit D hereto, suitable for the intended use for coal haulage and in compliance with applicable legal and safety requirements and that they meet the standards in effect under the Interchange Rules of the Association of American Railroads, the Interstate Commerce Commission, the Department of

Transportation, and any other legislative, administrative, judicial, regulatory or governmental body having jurisdiction in the matter. Any claims by Lessee for breach of the foregoing representations and warranties must be made within sixty (60) days following delivery and acceptance of an Unit, and are thereafter waived.

(B) LESSOR, NOT BEING THE MANUFACTURER OF THE UNITS, NOR THE MANUFACTURER'S AGENT, HEREBY EXPRESSLY DISCLAIMS AND MAKES TO LESSEE NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, CONCERNING THE UNITS, EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED IN THIS LEASE, LESSOR IS NOT RESPONSIBLE OR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGE TO OR LOSSES RESULTING FROM THE OPERATION OR USE OF THE UNITS OR ANY UNIT. Lessor hereby acknowledges that any manufacturer's and/or seller's warranties are for the benefit of both Lessor and Lessee.

6. Use of the Units. Lessee agrees, for the benefit of Lessor, to comply in all respects with all laws of the jurisdictions in which operations involving any Unit subject to this Lease may extend, with the Interchange Rules and the Codes of Car Hire and Car Service Rules of the Association of American Railroads, if applicable, and with all rules and regulations of the Interstate Commerce Commission, the Department of Transportation, and any other legislative, executive, administrative, judicial or governmental body or officer exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the ownership, possession, operations or use of such Unit; and Lessee shall and does hereby indemnify and hold harmless Lessor from and against any and all liability that may arise from any infringement or violation of any such laws or rules by Lessee, its agents, employees, or any other person. Lessee agrees to use the Units in a careful and prudent manner, solely in the use, service and manner for which they were designed and predominately in the United States of America. It is understood that the Units are to be used in coal service only, and shall not under any circumstances be used for carriage of any other commodity without prior written permission of Lessor.

Lessee shall be permitted to place the Units in interchange service, provided, however, that Lessee shall not suffer or permit the use of the Units in a manner or for a purpose that is prohibited by or inconsistent with the terms and provisions of this Lease, and Lessee shall in all events continue to be fully liable and responsible in accordance with the terms and provisions of this Lease for the possession, use, condition and operation of such Units, notwithstanding that such Units are being used in interchange by any third party.

7. Filings and Marks. Lessor agrees to file any and all reports required to be filed by Lessor, including filing this Lease with the Interstate Commerce Commission pursuant to 49 U.S.C. Sec. 11303. Lessee will cause each Unit to be kept numbered with the identifying numbers as set forth in Exhibit A hereto and all other markings and stencilling required by the Interchange Rules and the Codes of Car Hire and Car Service Rules of the Association of American Railroads, as the same may be amended from time to time, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the following words: "Owned by The David J. Joseph Company", or other appropriate words designated by Lessor. Lessee will notify Lessor promptly of any such words which may be removed, defaced or destroyed. Lessee will not change, or permit to be changed, the reporting marks on any Unit, except such changes that Lessor may be required to make by the Interchange Rules and the Codes of Car Hire and Car Service Rules of the Association of American Railroads, as the same may be amended from time to time, all of which Lessor and Lessee agree to have filed in all public offices where this Lease will have been filed.

Within forty-five (45) days after each twelve month period that each Unit is subject to this Lease, the Lessee will furnish to Lessor, in such number of counterparts or copies as may reasonably be requested by Lessor, a Lessee's certificate reporting total miles travelled by such Unit during such twelve month period summarized by state.

8. Taxes and Other Assessments. Lessor shall be responsible for all taxes (excluding only any federal income taxes of Lessee or any state or local taxes imposed upon or measured by net income of Lessee) upon or in connection with or measured by the Lease or imposed upon the Units.

Lessee shall be responsible for and indemnify Lessor for all license fees, assessments, charges, duties, fines and penalties, currently or hereafter levied or imposed by any state, local, federal or foreign authority (all such expenses, license fees, assessments, charges, duties, fines, and penalties, being hereinafter called "Assessments") upon or in connection with or measured by this Lease or imposed upon the Units or for the possession, rental, use or operation thereof or taxes imposed on Lessee's earnings arising therefrom, all of which Assessments Lessee assumes and agrees to hold Lessor harmless from.

9. Indemnification. Except as otherwise provided in this Lease, Lessee assumes liability for, and hereby agrees to indemnify, protect and keep harmless Lessor, its employees, agents, successors and assigns from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses, including reasonable attorney's fees, of whatsoever kind and nature, arising out of any breach of this Lease by Lessee, or arising out of the possession, use, operation,

or return of the Units or any Unit, regardless of where, how and by whom operated; provided, however, that Lessee shall not be responsible to Lessor for any liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses, including reasonable attorney's fees, of whatsoever kind and nature (i) to the extent caused by the gross negligence or willful misconduct of Lessor; or (ii) occurring while such Unit is in a car repair shop for maintenance and repairs for which Lessor is responsible. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the expiration or other termination of this Lease.

10. Lessor's Performance of Lessee's Obligations. If Lessee shall fail to duly and promptly perform any of its obligations under this Lease with respect to the Units, Lessor shall have the option, but not the obligation, to perform any act or make any payment which Lessor deems necessary for the maintenance and preservation of the Units and Lessor's title thereto, and all sums so paid or incurred by Lessor shall be additional rent under this Lease payable by Lessee to Lessor on demand. The performance of any act or payment by Lessor as aforesaid shall not be deemed a waiver or release of any obligation or default on the part of the Lessee.

11. Insurance. Lessee will at its own expense cause to be carried and maintained insurance with respect to the Units sufficient to cover property damage in an amount to cover the Casualty Settlement Value of the Units as provided in Exhibit E hereto and liability in the amount of [REDACTED] per occurrence with respect to third party personal injury and property damage. All policies whether property or liability shall require the insurer to give Lessor at least 30 days prior written notice of any cancellation or modification of such insurance. Lessee shall at its option be permitted to self-insure on any specific interest. Lessee hereby warrants and agrees to place Lessor in the same position as if the required insurance had been in place.

12. Risk of Loss. Lessee assumes all risk of loss, damage, theft, condemnation or destruction of the Units. Except as provided in this Section 12, no such loss, damage, theft, condemnation or destruction of the Units, or any Unit, in whole or in part, shall impair the obligations of Lessee under this Lease, all of which shall continue in full force and effect. Whenever any Unit shall be or become lost, stolen, destroyed or damaged, from ordinary use, neglect, abuse, fire, the elements or any other cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences") during the Term of this Lease, Lessee shall, promptly after it shall have been determined that such Unit has suffered a Casualty Occurrence, but in any event within thirty (30) calendar days after such Casualty Occurrence, notify Lessor in writing of such Casualty Occurrence and shall thereafter continue to give Lessor any

additional information which the Lessor has as a need to obtain about such Unit. In the event any of the Units suffer a Casualty Occurrence, Lessee at its' sole cost and expense shall pay to Lessor an amount equal to the accrued Gross Rental for such Units to the date of payment plus a sum equal to the Casualty Settlement Value of such Units, as specified on Exhibit E attached hereto, in which case such Units shall thereafter be deleted from this Lease. Any Casualty Settlement Value payable by Lessee to Lessor pursuant to this Section 12 shall be reduced by any amounts received by Lessor from any party responsible for such Casualty Occurrence.

13. Default and Remedies. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions (hereinafter referred to as "Events of Default"): (a) If Lessee fails to pay any sum required to be paid hereunder on or before the due date and such failure continues for a period of ten (10) consecutive days after receipt of written notice of such default; (b) If Lessee fails at any time to procure or maintain any insurance coverage required by this Lease and Lessee fails to provide to Lessor written notice of self insurance; (c) If Lessee fails to observe or perform any of the covenants, conditions and agreements on the part of Lessee to be observed or performed and contained herein (other than the payment of any sums required to be paid hereunder and other than the obligation to procure and maintain any insurance coverage required by this Lease) or any schedule or any supplement or rider hereto, and such default shall continue for thirty (30) days after receipt by Lessee of written notice of such default; (d) The appointment of a receiver, trustee or liquidator of Lessee or of a substantial part of its property, or the filing by Lessee of a voluntary petition in bankruptcy or other similar insolvency laws or for reorganization; or (e) If a petition against Lessee in a proceeding under bankruptcy laws or other similar insolvency laws shall be filed and shall not be withdrawn or dismissed within thirty (30) days thereafter.

Upon the occurrence of any one or more of the Events of Default specified within this Section 13 above, and at any time thereafter (unless such Event of Default shall have been waived in writing by Lessor), Lessor may without any further notice exercise any one or more of the following remedies: (i) Declare all then accrued unpaid Gross Rental under this Lease to be immediately due and payable; (ii) Terminate this Lease as to any or all Units without relieving Lessee of any of its obligations hereunder; (iii) Take possession of the Units and for this purpose enter upon any premises of Lessee and remove the Units, without any liability or suit, action or other proceeding by Lessee and without relieving Lessee of any of its obligations hereunder; (iv) Cause Lessee, at its sole expense, to promptly return the Units to Lessor in accordance with the terms and provisions of Section 14 hereof; (v) Proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this

Lease or to recover damages for the breach thereof; or (vi) Exercise any other right available to Lessor at law or in equity; provided, however, that nothing contained herein is intended to negate or reduce any obligation imposed by law or in equity upon Lessor to mitigate any damages it suffers as the result of a breach or default by Lessee. No right or remedy conferred on or reserved to Lessor by this Lease shall be exclusive of any other right or remedy herein or by law provided. All rights and remedies of Lessor conferred on Lessor by this Lease or by law shall be cumulative and in addition to every other right and remedy available to Lessor. No failure on the part of Lessor to exercise and no delay in exercising any right or remedy hereunder shall operate as a waiver thereof unless specifically waived by Lessor in writing; nor shall any single or partial exercise by the Lessor of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy.

Lessor shall be in default under this Lease if Lessor fails to perform its obligations herein and such default shall continue for thirty (30) days after receipt by Lessor of written notice of such default. Lessee may exercise any right available to Lessee at law or in equity for such default by Lessor.

14. Return of Units. At the expiration of this Lease, or at the direction of Lessor pursuant to Section 13 of this Lease, Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be empty, free from residue, suitable for loading, and in the same or better operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and certain pre-existing damages or other specified defects as acknowledged on Exhibit D hereto excepted, and (ii) be jointly inspected by representatives of Lessor and Lessee. In the event that any Unit is not delivered to Lessor in compliance with this Section 14 on or before the Expiration Date, the Unit shall remain on rental and obligations of Lessee under this Lease with respect to such Unit shall remain in full force and effect until such Unit is so delivered to Lessor and jointly inspected; provided, however, in the event that any Unit is not delivered to Lessor in compliance with this Section 14 within thirty (30) days after the Expiration Date, the Base Rental or the Option Term Rental as the case may be for such Unit shall, upon the expiration of such thirty (30) day period, be set at one and one-half times such rental. Nothing in this Section shall give Lessee the right to retain possession of any Unit after expiration or termination of this Lease with respect to such Unit, except as provided for in this Section 14.

For the purpose of delivering possession of the Units to the Lessor as above required, Lessee shall, at its own cost, expense and risk: (a) Lessee shall notify Lessor prior to the final loading of each Unit; (b) Lessee shall assemble the Units

prior to their last loaded move at one location for the joint inspection by Lessor and Lessee at a storage site or other trackage area where the tracks are inactive and the railroad will allow entry of Lessor for inspection; and (c) Lessee shall thereafter move the Units at no cost to Lessor to any point on the CSXT railroad system as directed by Lessor, with notification by Lessor at least thirty (30) days prior to the end of the Lease Term designating such CSXT delivery point, or to East St. Louis, IL as described in Exhibit C hereto. Lessee's obligations in this Section 14 shall survive the Termination Date of this Lease. The assembly, transport and delivery, of the Units as hereinbefore provided shall be at the cost, expense and risk of Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the matter, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to assemble, store and transport the Units.

15. Notices. Any notice required or permitted to be given by either party hereto to the other shall be in writing and shall be deemed given when actually received or five (5) days after deposited in United States Certified or Registered Mail, Return Receipt Requested, postage prepaid, addressed as follows:

TO LESSOR: The David J. Joseph Company
300 Pike Street
Cincinnati, Ohio 45202
Attention: Vice President - RELM Division

TO LESSEE: Hobet Mining, Inc.
P.O. Box 6100
Huntington, WV 25701
Attention: Vice President Transportation

or at such other place as the parties hereto may from time to time designate by notice, each to the other.

16. Miscellaneous Provisions.

(a) This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. This lease may be amended or supplemented, whether through addition of any schedule and/or rider or otherwise only by the written consent of both parties.

(b) This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

(c) The terms of this Lease and all rights and obligations hereunder shall be governed by the substantive internal laws of the State of Ohio. The invalidity or unenforceability of any particular provision of this Lease shall not affect the remaining provisions hereof.

(d) No recourse shall be had in any respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer (past, present or future) of the Lessor.

(e) This Lease is assignable by Lessor, provided, however that Lessor has delivered to Lessee written notice of intent of assignment by Lessor and provided that Lessor has obtained the prior consent of Lessee to assign Lessor's obligations under the Lease, which consent shall not be unreasonable withheld, and upon approval by Lessee of the assignment, that Lessor is not relieved from any liabilities Lessor incurred during the period of time it acted as Lessor. Any such assignments by Lessor shall be expressly subject to the terms of this Lease and upon such assignment, and term "Lessor" as used herein shall refer to such assignee, and The David J. Joseph Company shall thereafter be relieved of all of its liabilities and obligations under this Lease, except for those liabilities incurred during the period of time it acted as Lessor.

(f) Nothing contained herein shall give or convey to Lessee any right, title or interest in and to the Units leased hereunder except as a lessee thereof, and the Units are and shall at all times be and remain the sole and exclusive property of Lessor.

(g) Any cancellation or termination of this Lease by Lessor, pursuant to the terms and provisions hereof, or any schedule, supplement, rider or amendment hereto, or any termination of the Term by lapse of time, shall not release Lessee from any then outstanding obligations and/or duties to Lessor hereunder.

(h) Time is of the essence of this Lease.

(i) Notwithstanding anything contained in this Lease to the contrary, neither party shall be liable to the other party for failure to perform any obligations of Lessor herein contained by reason of labor disturbances (including strikes and lockouts), war, riots or civil commotion, acts of God, fires, floods, explosions, storms, accidents, governmental regulations or interference, or any cause whatsoever beyond its reasonable control, except for any payments due to the other party.

(j) It is expressly understood and agreed by the parties hereto that this instrument constitutes a lease of the Units only, and that no joint venture or partnership is being created.

(k) To the extent there exists any conflict between the terms and provisions of this Lease and the terms and provisions of the Interchange Rules or the Codes of Car Hire and Car Service Rules of the Association of American Railroads, this Lease shall control.

(1) Lessee hereby authorizes Lessor, and agrees that Lessor shall be entitled, to access UMLER and receive all information thereon with respect to the Units, or the use and operation thereof, together with all other information as may be available from the Association of American Railroads, and Lessee agrees to execute such instruments or consents as may be necessary or required in order to carry out the intent of this paragraph (1).

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first above written.

Signed and acknowledged
in the presence of:

Susan L. Fierdinburgh
(As to Lessor)

Steven E. Ward
(As to Lessor)

LESSOR:

THE DAVID J. JOSEPH COMPANY

BY: D. J. McMillan

NAME: Douglas F. McMillan

TITLE: VICE PRESIDENT

Signed and acknowledged
in the presence of:

Judith C. Byers
(As to Lessee)

Dan E. Edelman
(As to Lessee)

LESSEE:

HOBET MINING, INC.

BY: Raymond Smallwood

NAME: RAYMOND SMALLWOOD

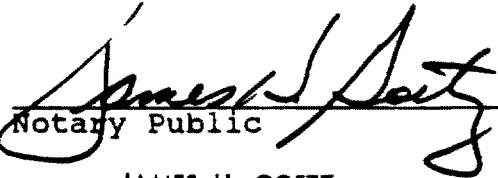
TITLE: PRESIDENT

STATE OF OHIO)

COUNTY OF HAMILTON)

SS:

The foregoing instrument was acknowledged before me this 11TH
day of DECEMBER, 1992, by Douglas F. McMillan,
the VICE PRESIDENT of The David J. Joseph Company, a
Delaware corporation, on behalf of the corporation.


Notary Public

JAMES H. GOETZ
Notary Public, State of Ohio
My Commission Expires July 10, 1995

STATE OF West Virginia)
COUNTY OF Boone)

SS:

The foregoing instrument was acknowledged before me this 15th
day of December, 1992, by Raymond Smallwood,
the President of Hohet Mining, Inc.,
a West Virginia corporation, on behalf of the corporation.



Amalea K. Griffith
Notary Public

EXHIBIT A

DESCRIPTION OF UNITS

Eighty-two (82) 100 ton, 4000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1978 (OGEX 1371 and OGEX 1372) and the balance in 1985, as described in the line drawing sheet attached hereto as part of Exhibit A, and with the following markings or designations:

<u>OLD NUMBER</u>	<u>NEW NUMBER</u>
OGEX 1183	DJJX 2100
OGEX 1186	DJJX 2101
OGEX 1188	DJJX 2102
OGEX 1192	DJJX 2103
OGEX 1194	DJJX 2104
OGEX 1195	DJJX 2105
OGEX 1197	DJJX 2106
OGEX 1200	DJJX 2107
OGEX 1201	DJJX 2108
OGEX 1207	DJJX 2109
OGEX 1208	DJJX 2110
OGEX 1211	DJJX 2111
OGEX 1213	DJJX 2112
OGEX 1214	DJJX 2113
OGEX 1216	DJJX 2114
OGEX 1217	DJJX 2115
OGEX 1218	DJJX 2116
OGEX 1221	DJJX 2117
OGEX 1223	DJJX 2118
OGEX 1224	DJJX 2119
OGEX 1227	DJJX 2120
OGEX 1229	DJJX 2121
OGEX 1231	DJJX 2122
OGEX 1233	DJJX 2123
OGEX 1234	DJJX 2124
OGEX 1235	DJJX 2125
OGEX 1237	DJJX 2126
OGEX 1240	DJJX 2127
OGEX 1242	DJJX 2128
OGEX 1243	DJJX 2129
OGEX 1245	DJJX 2130
OGEX 1251	DJJX 2131
OGEX 1252	DJJX 2132
OGEX 1255	DJJX 2133
OGEX 1257	DJJX 2134
OGEX 1262	DJJX 2135
OGEX 1265	DJJX 2136
OGEX 1267	DJJX 2137
OGEX 1269	DJJX 2138
OGEX 1270	DJJX 2139
OGEX 1272	DJJX 2140

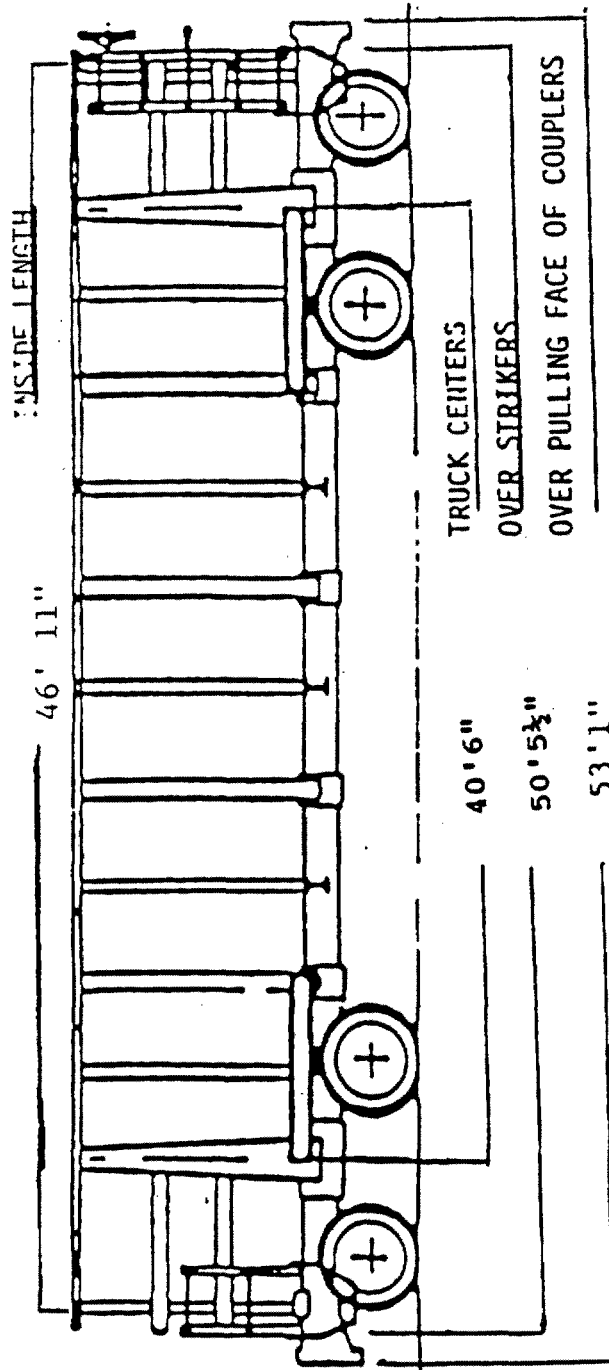
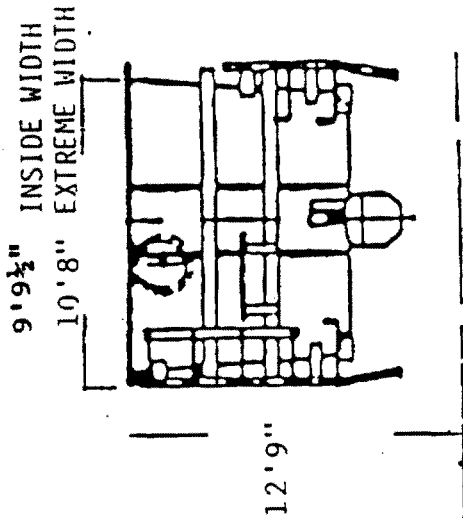
EXHIBIT A

<u>OLD NUMBER</u>	<u>NEW NUMBER</u>
OGEX 1276	DJJX 2141
OGEX 1277	DJJX 2142
OGEX 1278	DJJX 2143
OGEX 1285	DJJX 2144
OGEX 1287	DJJX 2145
OGEX 1289	DJJX 2146
OGEX 1291	DJJX 2147
OGEX 1293	DJJX 2148
OGEX 1294	DJJX 2149
OGEX 1295	DJJX 2150
OGEX 1298	DJJX 2151
OGEX 1301	DJJX 2152
OGEX 1306	DJJX 2153
OGEX 1307	DJJX 2154
OGEX 1312	DJJX 2155
OGEX 1314	DJJX 2156
OGEX 1315	DJJX 2157
OGEX 1316	DJJX 2158
OGEX 1317	DJJX 2159
OGEX 1319	DJJX 2160
OGEX 1320	DJJX 2161
OGEX 1322	DJJX 2162
OGEX 1324	DJJX 2163
OGEX 1325	DJJX 2164
OGEX 1326	DJJX 2165
OGEX 1332	DJJX 2166
OGEX 1337	DJJX 2167
OGEX 1341	DJJX 2168
OGEX 1342	DJJX 2169
OGEX 1343	DJJX 2170
OGEX 1344	DJJX 2171
OGEX 1352	DJJX 2172
OGEX 1354	DJJX 2173
OGEX 1358	DJJX 2174
OGEX 1359	DJJX 2175
OGEX 1361	DJJX 2176
OGEX 1362	DJJX 2177
OGEX 1364	DJJX 2178
OGEX 1370	DJJX 2179
OGEX 1371	DJJX 2180
OGEX 1372	DJJX 2181

The David J. Joseph Company
300 Pike Street
Cincinnati, OH 45202



Phone: (513) 621-8770
Fax: (513) 345-4397



DESCRIPTION: 1985 THRALL ROTARY COAL GONDOLA

AAR MECHANICAL DESCRIPTION—	GT	SPRING: Size	D-7
CAR TYPE CODE	J301	Arrangement	36 Outer; 20 Inner
BUILDER	Thrall	BRAKE SYSTEM	ABD W-Body Mounted
DATE BUILT: New	1985	COUPLER	F Body 8 1/2" Cylinder
Rebuilt			
CUBIC FOOT CAPACITY	4,000 cu.ft.	BULKHEAD OR CONTAINER:	
NOMINAL CAPACITY	200,000	TOP WIDTH	
LIGHT WEIGHT	60,000 Approx.	HEIGHT ABOVE PLATFORM	
CLEARANCE DIAGRAM	Plate B	LENGTH BETWEEN PULLING FACES	
LINING TYPE		MINIMUM CURVE NEGOTIABILITY	
DOOR TYPE			
BEARINGS	Roller	MISCELLANEOUS:	
ROOF TYPE		Center of Gravity: Full-84", Empty-48"	
FLOOR TYPE	Steel	Inside Height: 9'2-3/8"	
JOURNAL SIZE	6 1/2" x 12"	A End Equipped w/ Rotary Coupler	
DRAFT GEAR	Group J	Inside Width at Bottom 8'8 1/2"	
		Height Rail to Top of Floor 3'6-3/16"	

CURVE DATA:
Uncoupled 150' RAD
Coupled to Base Car 165' RAD
Coupled to Like Car 245' RAD
Uncoupled Vert. Curve 300' RAD

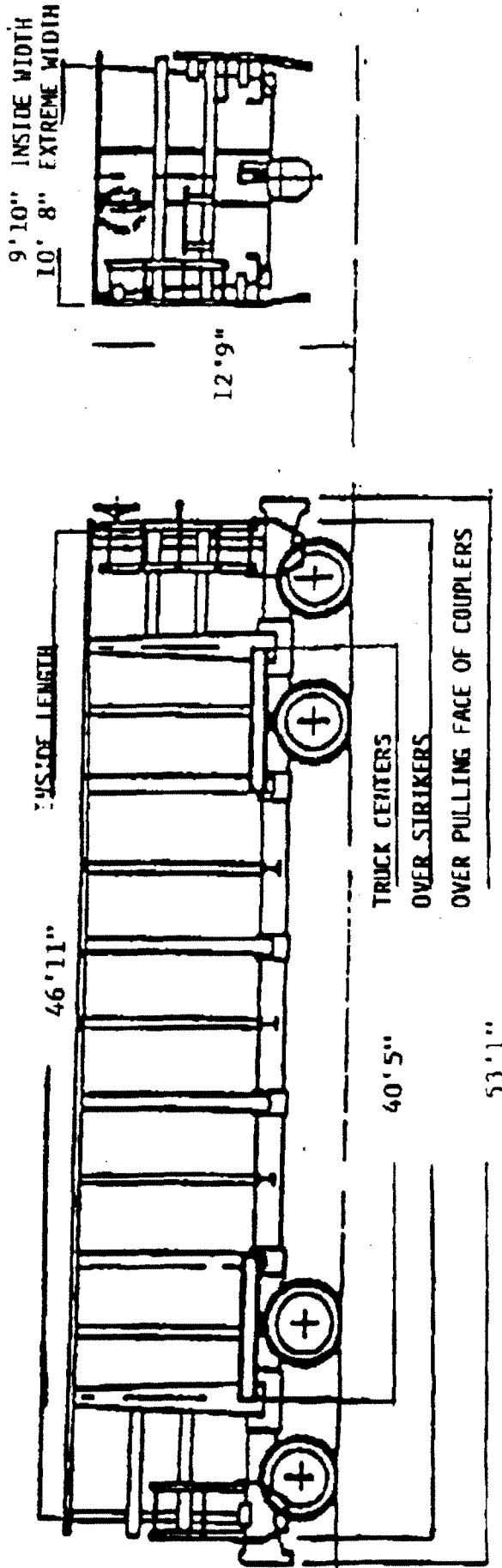
EXHIBIT A

Twenty-eight (28) 100 ton, 4000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1970, as described in the line drawing sheet attached hereto as part of Exhibit A, and with the following markings or designations:

<u>OLD NUMBER</u>	<u>NEW NUMBER</u>
BN 575029	DJJX 1837
BN 575059	DJJX 1838
BN 575062	DJJX 1839
BN 575071	DJJX 1840
BN 575072	DJJX 1841
BN 575101	DJJX 1842
BN 575103	DJJX 1843
BN 575107	DJJX 1844
BN 575110	DJJX 1845
BN 575124	DJJX 1846
BN 575143	DJJX 1847
BN 575135	DJJX 1848
BN 575145	DJJX 1849
BN 575150	DJJX 1850
BN 575168	DJJX 1851
BN 575175	DJJX 1852
BN 575183	DJJX 1853
BN 575199	DJJX 1854
BN 575202	DJJX 1855
BN 575233	DJJX 1856
BN 575241	DJJX 1857
BN 575242	DJJX 1858
BN 575243	DJJX 1859
BN 575244	DJJX 1860
BN 575245	DJJX 1861
BN 575246	DJJX 1862
BN 575247	DJJX 1863
BN 575249	DJJX 1864



The David J. Joseph Company
300 Pike Street
Cincinnati, OH 45202-4214
513/621-8770
Fax 513/651-7762



DESCRIPTION: 1970 TIRALL ROTARY COAL GONDOLA

AAR MECHANICAL DESCRIPTION	GT	SPRING: Size	
CAR TYPE CODE	J301	Arrangement	
BUILDER	TIRALL	BRAKE SYSTEM	AND
DATE BUILT: Nov	1970	COUPLER	F Body
CUBIC FOOT CAPACITY	4,000 cu.ft.	BULKHEAD OR CONTAINER:	
NOMINAL CAPACITY	200,000	TOP WIDTH	
LIGHT WEIGHT	60,000 APPROX.	HEIGHT ABOVE PLATFORM	
CLEARANCE DIAGRAM	Plate B	LENGTH BETWEEN PULLING FACES	
LINING TYPE		MINIMUM CURVE NEGOTIABILITY	
DOOR TYPE		MISCELLANEOUS:	
BEARINGS	Roller	Inside Height: 9'2"	
ROOF TYPE	Steel	A End Equipped w/ Rotary Coupler	
FLOOR TYPE	6 1/2" x 12"		
JOURNAL SIZE	GROUP J		
DRAFT GEAR			

THIS INFORMATION IS CORRECT TO THE BEST OF OUR KNOWLEDGE AND IS PROVIDED WITHOUT WARRANTY OF ANY KIND.
#50

EXHIBIT B

BASE RENTAL

Full Service Lease During the Base Term

- Eighty-two (82) 100 ton, 4000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1978 and 1985:

██████ per car per month, or prorata thereof

- Twenty-eight (28) 100 ton, 4000 cubic foot capacity rotary dump steel gondolas built by Thrall in 1970:

██████ per car per month, or prorata thereof

OPTION TERM RENTAL

Full Service Lease During the Option Term

- On all Units covered by the Lease:

██████ per car per month, or prorata thereof

EXCESS MILEAGE RENTAL

- For each mile each Unit is operated during each consecutive twelve (12) month period during the Terms of the Lease in excess of 48,000 miles, or prorata thereof, Lessee is to pay Lessor ██████ per mile.

EXHIBIT C

POINTS OF TENDER

At the CSXT Transportation interchange with Alton and Southern Railway Company located at East St. Louis, IL.

EXHIBIT D

ACCEPTANCE CERTIFICATE

The undersigned, _____, the duly authorized representative of _____ (the "Company"), hereby certifies to The David J. Joseph Company ("DJJ") that the Gondola Railcars bearing reporting marks listed below (the "Cars") have been delivered to the Company, have been inspected, and are acceptable to the Company. This certificate is being delivered pursuant to Section 3 of that certain Lease Agreement dated _____ by and between the Company and DJJ.

DJJ and the Company acknowledge the presence of pre-existing damages or the specified defects, as:

Cars

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

IN WITNESS WHEREOF, the undersigned, being the _____ of the Company, does hereunto set his hand as of this day of _____ on behalf of the Company.

HOBET MINING, INC.

By: _____

Print Name: _____

Print Title: _____

EXHIBIT E

CASUALTY SETTLEMENT VALUE

The Casualty Settlement Value for the equipment covered under this Lease shall be the Depreciated Value of the Unit calculated in accordance with the Association of American Railroads Interchange Rule 107.

CERTIFICATE

The undersigned, Stephen M. Griffith, Jr., a notary public in and for the County of Hamilton, State of Ohio, hereby certifies that the copy of the document attached hereto has been compared with the original and that the undersigned has found the copy to be complete and identical in all respects to the original document.



Notary Public

STEPHEN M. GRIFFITH, JR., Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My Commission Expires on 12/31/2011
Notary Section 149.02 (b)(2)